

ATTACHMENT J.4.37

FERMCO HUMAN RESOURCES POLICY 144 - FERMCO SUBSTANCE ABUSE PROGRAM

Title: SUBSTANCE ABUSE PROGRAM (SAP)	DOCUMENT NO: HR-144	
COMPLIANCE WITH THIS PROCEDURE IS MANDATORY WHILE PERFORMING THE ACTIVITIES WITHIN ITS SCOPE	Date: 02-23-96	Revision No. 1
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I. PURPOSE

This policy describes the FERMCO Substance Abuse Program. FERMCO's standards of excellence and quality require that all employees be free from the misuse of alcohol or drugs, including legal drugs, when working or involved in any activity representing FERMCO. FERMCO's intent is to maintain a safe and efficient workplace that is free of substance abuse by employees and subcontractors.

II. DEFINITIONS

Accident - An event stemming from technological and man-made hazards which presents a potential threat to life, health, property, or the environment.

Assistant Emergency Duty Officer (AEDO) - The AEDO is delegated the responsibility for acting as the Facility Manager for reporting Off Normal, Unusual Occurrence and Emergency Events to DOE. Generating and submitting the 24 hour Notification Report is the responsibility of the AEDO. Any notifications to regulatory agencies are documented on the Notification Report.

Alcohol - Any beverage, mixture, or preparation containing ethyl alcohol (including any medication).

Contract Administrator - The contractor employee who notifies the subcontract company to submit to the requirements of the FERMCO Substance Abuse Program.

Contract Requisitioner (Technical Representative) - The employee who initially requests the contracted work of a subcontractor for services and may serve as the teaming partner or subcontractor site representative.

Employee - For purposes of this policy, a FERMCO full time, part time, cooperative education, intern, or graduate assistant, subcontractor, or teaming partner, who is issued a FERMCO pictured security badge.

Illegal Drug - Any drug or controlled substance that is not legally obtainable, has not been legally obtained, or is prohibited by law. This includes controlled substances as specified in Schedules I through V of the Controlled Substances Act, 21 U.S.C. 811.812. The term illegal drugs does not apply to the use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law.

Legal Drug - Any drug, including prescription and over-the-counter drugs, that is legally obtainable and has been legally obtained.

Manager, HR/IR - Manager, Human Resources (HR) for salaried employees and Manager, Industrial Relations (IR) for represented employees.

Occurrence - Any deviation from the planned or expected behavior or course of events in connection with FERMCO operations if the deviation has environmental, safety, or health protection significance.

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Reasonable Suspicion - Any behavior or deviation in performance that may indicate the employee may have a substance abuse problem.

Teaming Partner Site Representative - A representative from the respective teaming partner company responsible for any teaming partner employee personnel actions.

Subcontractor - Any employee working for a subcontract company of the FEMP.

Subcontractor Representative - Representative of the subcontract company who is responsible for the subcontract employee's personnel actions.

Substance - Refers to "alcohol," "controlled substances," "illegal drug," and "legal drug" as defined or referenced in this policy and State or Federal laws.

Substance Abuse - Use of illegal drugs or the misuse of legal drugs and/or alcohol.

Teaming Partner - Any employee working for one of the following companies; Fluor Daniel, Jacobs Engineering, Halliburton NUS, or Nuclear Fuel Services, Inc.

Testing Designated Positions (TDP) - Job classifications whose incumbent personnel directly engaged in production, use, storage, transportation, or disposal of hazardous materials sufficient to cause significant harm to the environment of public health and safety.

III. POLICY

It is the policy of Fernald Environmental Restoration Management Corporation (FERMCO) to have a work environment that is drug free and alcohol-free. FERMCO recognizes that employees who use drugs and/or alcohol in the workplace may put the safety, security, and well being of themselves, their co-workers, and the general public at risk. All subcontractors, teaming partners and FERMCO employees (including new employee applicants) seeking access to FERMCO-managed facilities shall be subject to this policy.

Due to the degree to which FERMCO relies on subcontractors and teaming partners for work performed at FERMCO-managed facilities, it is policy that a subcontractor or teaming partner company implement the same drug/alcohol free workplace standard. FERMCO procurement and subcontractor personnel shall include in FERMCO subcontracts the appropriate language to require companies performing work to subscribe to the same drug/alcohol-free workplace policy per the requirements of the Department Of Energy 10 CFR Part 707 Workplace Substance Abuse Programs at DOE Sites and 49 CFR 40 Department Of Transportation.

FERMCO reserves the right to test all applicants to include subcontractors and Teaming Partners seeking employment with the company or access to FERMCO-managed facilities for the presence of drugs and/or alcohol in their system and to hire only those applicants who pass the company's drug/alcohol test.

All employees will be subject to drug and/or alcohol testing by urinalysis and/or breathalyzer if there is reasonable suspicion that the employee is impaired in any way while acting for or on behalf of the company.

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Moreover, supervision shall require employees to submit to drug or alcohol testing in connection with safety or security incident investigations. When conducting reasonable suspicion or occurrence testing, FERMCO may test for any drug listed in Schedules I or II of the Controlled Substance Act.

FERMCO and teaming partner employees, and subcontracted employees holding testing designated positions or are in a safety sensitive function, may be tested at any time on a random basis per the appropriate requirements.

Any employee who engages in the unlawful manufacture, distribution, dispensation, sale, use, or possession of drugs or alcohol while at any FERMCO-managed facility will be subject to disciplinary action which may result in immediate discharge.

Any employee who reports to work while under the influence of intoxicants (including alcohol), narcotics, hallucinogens, depressants, stimulants, or other such drugs, or who acts for or on behalf of FERMCO while under the influence of drugs and/or alcohol will be subject to disciplinary action which may result in immediate discharge.

An employee who refuses to cooperate in drug and/or alcohol testing required by FERMCO will be subject to disciplinary action for refusal to cooperate in such testing and may result in denial of site/facility access. Such disciplinary action may result in immediate discharge.

Any employee who has been convicted of a criminal drug statute for a violation must notify FERMCO in writing within 10 days after such conviction. Failure to notify FERMCO of such a conviction is grounds for disciplinary action up to and including discharge. Within 10 days of receiving such notice, FERMCO will notify the DOE of the conviction.

Under certain circumstances, FERMCO may require, as a condition of disciplinary action, that a FERMCO employee successfully complete an EAP recommended course of treatment and rehabilitation followed by a period of probationary employment during which the employee is subject to additional unannounced drug and/or alcohol testing.

On an annual basis the FERMCO Random Drug and Alcohol Testing Program targets two (2) employee groups:

- (1) 49 CFR 40 - DOT Required Random Testing - 50% of groups population for drug and 25% for alcohol

NOTE: *DOT employees in another comparable Federal substance abuse testing program may be exempted to avoid multiple tests.*

- (2) 10 CFR Part 707 - Required Drug Testing for Testing Designated Positions - 50% of groups population.

NOTE: *The Vice President of Safety & Health or acting representative shall make the final determination for testing designated positions.*

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IV. POLICY ELEMENTS

The elements of the program will include:

- (1) Applicant (pre-employment or pre TDP reclassification), random, reasonable suspicion, post-accident/incident drug testing to cover, at a minimum, the five drugs of abuse as identified by the Department of Health and Human Services (Marijuana, Cocaine, Opiates, Phencyclidine, and Amphetamines).
- (2) Laboratory screening and confirmation of testing results, as well as Medical Review Officer verification.
- (3) Disciplinary policy that addresses violations of the Substance Abuse Program.

V. PROCEDURE

- (4) Employee awareness and supervisory/management training on the dangers of drugs and alcohol in the workplace, development of skills in recognizing deteriorating job performance, and appropriate management and referral of employees who may have substance abuse problems.
- (5) Employee Assistance Program (EAP).

The Human Resources (HR)/Industrial Relations Department (IR) is responsible for the implementation and administration of the Substance Abuse/Fitness for Duty Program with assistance from the Safety & Health Department (S&H). S&H is responsible for the medical and technical portions of the program as well as the evaluation and approval of all subcontractor's substance abuse programs.

A. FERMCO APPLICANT TESTING RESPONSIBILITIES

HR, IR, Teaming Partner or subcontractor site representative

1. Inform all FERMCO site applicants, they are required to submit to substance abuse testing.

MEDICAL

2. The FERMCO Medical Facility must administer and obtain a negative drug result prior to site access for any individual working in a safety sensitive position or prior to reclassification to a TDP.

NOTE: Any employee or subcontractor leaving employment at the FEMP for 30 consecutive days will be required to complete substance abuse testing as if a new applicant upon return.

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MEDICAL REVIEW OFFICER (MRO)

2. Inform designated HR/IR/teaming partner or subcontractor site representatives of the results of the test.

HR, IR, Teaming partner or subcontractor site representative

3. If the substance abuse test is negative, proceed with the employment process.
4. If an applicant tests positive, processing for employment will be terminated. The applicant will be notified of the reason for termination of processing.

NOTE: *For prospective new employees there will be a mandatory 1 year time period before reapplication may occur. To reapply the employee must have been evaluated by an EAP (Employee Assistance Program) regarding the positive drug test and provide documentation to the MRO (Medical Review Officer). If the applicant then tests negative on reapplication and is employed, the employee is subject to unannounced substance abuse testing by recommendation of the MRO for one to five years.*

B. RANDOM DRUG TESTING RESPONSIBILITIES

OCCUPATIONAL SAFETY AND HEALTH

1. Medical Services generates a random selection list of individuals to be tested by utilizing a tamper resistant computer software system. Medical Services maintains this selection system in a restricted area.
2. Medical informs the employees' supervisor that his/her employee has been selected for random testing. The employees' notification source depends on the employee category.

If a:

FERMCO employee - notify immediate supervisor of the individual's selection for random testing.

Teaming partner - notify immediate supervisor of the individual's selection for random testing.

Subcontractor - notify the FERMCO site representative of the individuals selected for random testing.

Matrixed employee - for notification purposes only, the matrix manager may be notified of an employee's need for testing, versus the administrative manager, due to more accessibility to the employee.

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SUPERVISOR OR AEDO

3. Provides verbal instruction to the employee to report to Medical Services or the designated sampling location immediately.

NOTE: *If employee is excused from the testing, the verbal instruction is made to the employee the first day the employee returns to work. (Refer to section V.C.2)*

EMPLOYEE

4. Report immediately to Medical Services or the designated sampling location and sign-in for random testing.
5. Cooperate with the test collection process.
6. Submit a urine specimen for testing for drugs of abuse and/or a breath test for alcohol.

MEDICAL SERVICES

7. Perform substance abuse testing on the designated employee.

C. FAILURE TO REPORT FOR TESTING

SUPERVISOR/SITE REPRESENTATIVE

1. Failure of a supervisor/site representative to ensure a selected employee's appearing for testing (including transportation for offsite employees) may result in disciplinary action being taken against both the supervisor/ site representative and the employee.
2. Inform Medical immediately if employee is to be excused from testing due to:
 - Absence due to illness
 - Pre-scheduled vacation
 - Pre-approved personal time off
 - Leave of Absence
 - Traveling on company business
 - In Training
3. Justification of failure to report to the test location must be submitted in writing to HR/IR within one day of the missed test.

NOTE: *The employee is to report to Medical for testing the day the employee has returned to work.*

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MEDICAL

4. If employee fails to report immediately, Medical shall contact the supervisor.
5. If the supervisor fails to ensure employee reports, Medical shall notify Industrial Relations or Human Resources.

D. FAILURE TO SUBMIT SAMPLE - MEDICAL

1. If employee refuses to be tested or to complete necessary paperwork, notify the supervisor.
2. If employee cannot provide necessary amount of urine for testing, he/she is to remain in Medical Services and consume fluids.
3. If specimen is not produced in two hours, determine if there is a medical reason. If unable to identify a medical reason, notify the supervisor and Industrial Relations or Human Resources.
4. If employee does not provide sufficient breath specimen for alcohol, test is to be repeated. If sample is not produced, determine if there is a medical reason. If unable to identify a medical reason, notify the supervisor and Industrial Relations or Human Resources.

HR, IR, and MRO

5. Failure to submit a sample is to be treated the same as a positive result.

E. REASONABLE SUSPICION

SUPERVISOR/AEDO

1. Document any behavior or deviation in performance that may indicate the employee may have a substance abuse problem.

NOTE: *Such behavior shall be witnessed by another supervisor/manager.*

2. Give a copy of the documentation to:
 - a. HR/IR manager if a FERMCO employee or Teaming Partner
 - b. Site Representative if a Subcontractor

HR, IR MANAGER and MRO

3. Determine whether a substance abuse test is warranted.

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4. If testing is warranted, inform the administrative supervisor of the employee/teaming partner or subcontractor.

ADMINISTRATIVE SUPERVISOR

5. Inform the employee of the observation(s), any deterioration in job performance, and the requirement to submit to a substance abuse test.
6. Accompany the employee to Medical Services for employee testing.

NOTE: *If the subject of the test is a represented employee, the appropriate union steward is to be notified that the employee is to be tested and the reasons for the test.*

MEDICAL REVIEW OFFICER

7. Interview the employee. Ascertain if any medical condition exists that could have caused the behavior or if the employee has been taking any prescription or non-prescription medication that could impair safe and/or efficient job performance.
8. If required, request substance abuse testing be administered by qualified personnel.

NOTE: *Substance abuse testing is to be conducted as soon as possible after the reasonable suspicion, no later than eight (8) hours for alcohol and/or twenty-four (24) hours for other substances.*

F. OCCURRENCE/POST-ACCIDENT

SUPERVISOR/SAFETY DEPARTMENT/AEDO

1. Following an accident or occurrence, contact the HR/IR Manager, or site representative.
2. Provide a copy of or verbal report of the accident or occurrence to the HR/IR Manager, and site representative, indicating the employee's involvement in the reportable accident or on-the-job occurrence.

HR or IR MANAGER

3. Inform the employee that, because of the employee's involvement in an industrial accident or unsafe work practice, the employee will be required to submit to a substance abuse test.

NOTE: *Substance abuse testing is to be conducted as soon as possible after the occurrence, no later than eight (8) hours for alcohol and/or twenty-four (24) hours for other substances.*

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SUPERVISOR/SAFETY DEPARTMENT/AEDO

4. Escort or appoint an escort to take the employee to Medical Services to have the testing administered.

NOTE: *If the subject of the test is a represented employee, the appropriate union steward is to be notified that the employee is to be tested and the reasons for the test.*

MEDICAL REVIEW OFFICER (MRO)

5. Interview the employee. Ascertain if any medical condition exists that could have caused the behavior or if the employee has been taking any prescription or non-prescription medication that could impair safe and/or efficient job performance.
6. If required, request substance abuse testing be administered by a qualified technician.

G. ACTIONS TO BE FOLLOWED AFTER POSITIVE TESTING

MEDICAL REVIEW OFFICER (MRO)

1. If employee tests > .02 but < .04 alcohol, notify IR/HR.
2. If employee tests positive for alcohol level > or = to 0.04%, no matter how attained, IR and HR shall be notified immediately. The employee is considered unfit for duty and shall refrain from reporting to work for 24 hours and until level drops below 0.02%.

MEDICAL REVIEW OFFICER

3. Inform:
 - a. HR/IR Manager if FERMCO employee or Teaming Partner
 - b. Site Representative if subcontractor
4. If a FERMCO employee, the MRO shall make a management referral to an appropriate EAP provider in accordance with teaming partner/subcontractor policies and procedures, or HR-329, Employee Assistance Program.
5. Upon completion of EAP recommendations and subsequent negative substance abuse testing, the employee may be reinstated to his/her position upon MRO approval.

HR or IR MANAGER

6. Remove an employee who has a first positive substance abuse test from his/her

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security or safety-sensitive position (TDP for 10 CFR 707 compliance; motor carrier drivers for 49 CFR 40 DOT compliance). The employee shall be placed on unpaid administrative leave until return is approved.

7. If a FERMCO employee, administer appropriate disciplinary action in accordance with HR-145, Employee Discipline.
8. If a subcontractor employee, notify the employee's Site Representative of the positive substance abuse test.

NOTE: *Employees reinstated under this provision shall be subject to unannounced substance abuse testing by recommendation of the MRO for at least one year following reinstatement.*

9. If an employee refuses to participate in EAP evaluation, treatment recommendations, or refuses to cooperate in the assessment process, their employment will be terminated.
10. Upon a second positive substance abuse test, a FERMCO employee will be terminated. Teaming partner or subcontractor employee's shall be denied site-access by FERMCO.

H. REPORTING EMPLOYEE ARRESTS AND/OR CONVICTIONS FOR DRUG/ALCOHOL-RELATED OFFENSES

EMPLOYEE

1. Notify your supervisor in writing within 10 calendar days of a conviction under a criminal drug/alcohol statute.
2. Notify the Company in writing within 10 calendar days of any drug/alcohol-related arrest or of being informed that you have had a positive substance abuse test.

HR or IR MANAGER

3. Within 10 calendar days after receiving notice of a drug-related conviction from an employee or receiving documented notice of an employee's conviction of a drug-related offense, provide written notification to the DOE contracting officer of the conviction.

NOTE: *Plea bargaining of a lesser charge will not alter the Company's responsibility for reporting to DOE.*

4. Within 30 calendar days following notification of an employee's conviction of a drug-related offense, personnel action shall be taken by the Company. Those actions may include, but are not limited to, discipline up to and including termination, removal from the position held before involvement in the offense, referral to EAP,

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and unannounced substance abuse testing.

VI. EXCEPTIONS

Approved by the President of FERMCO and the Human Resource Manager as recommended by the Medical Review Officer or the Manager of Industrial Relations in consultation with general counsel.